



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Natasha White,
County Correction Officer (S9999U),
Cumberland County

CSC Docket No. 2018-3046

List Removal Appeal

ISSUED: January 17, 2019 (WR)

Natasha White appeals the removal of her name from the eligible list for County Correction Officer (S9999U), Cumberland County, on the basis of having an unsatisfactory criminal record.

The appellant, a nonveteran, took the open competitive examination for County Correction Officer (S9999U), Cumberland County, achieved a passing score, and was ranked on the subsequent eligible list, which had a closing date of August 31, 2016, promulgated on March 29, 2017 and expires on March 30, 2019. The appellant’s name was certified on April 5, 2017. In disposing of the certification, the appointing authority requested the removal of the appellant’s name from the eligible list due to her unsatisfactory criminal record. Specifically, it asserted that the appellant was arrested and charged with witness tampering, hindering – obstruction by force, obstruction of the administration of law, and obstruction of a criminal investigation on November 1, 2014.

On appeal to the Civil Service Commission (Commission), the appellant states that the charges against her were dismissed by the prosecutor on February 18, 2015 and March 10, 2015. She claims, without further elaboration, that the charges were dismissed after she discussed her case with a detective and explained that the charges resulted from a “big misunderstanding and miscommunication.” Further, the appellant indicates that, as of June 2018, she has a pending petition for expungement.¹

¹ It is noted that the appellant does not indicate the disposition of her petition.

Despite the opportunity, the appointing authority did not respond.

CONCLUSION

N.J.S.A. 11A:4-11, in conjunction with *N.J.A.C.* 4A:4-4.7(a)(4), provides that an eligible's name may be removed from an employment list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to the employment sought. In addition, when the eligible is a candidate for a public safety title, an arrest unsupported by a conviction may disqualify the candidate from obtaining the employment sought. See *Tharpe v. City of Newark Police Department*, 261 *N.J. Super.* 401 (App. Div. 1992). In this regard, the Commission must look to the criteria established in *N.J.S.A.* 11A:4-11 and *N.J.A.C.* 4A:4-4.7(a)(4) to determine whether the appellant's criminal history adversely relates to the position of County Correction Officer. The following factors may be considered in such determination:

- a. Nature and seriousness of the crime;
- b. Circumstances under which the crime occurred;
- c. Date of the crime and age of the eligible when the crime was committed;
- d. Whether the crime was an isolated event; and
- e. Evidence of rehabilitation.

The presentation of a pardon or an expungement shall prohibit removal from a list, except for law enforcement, correction officer, juvenile detention officer, firefighter or judiciary titles and other titles as the Chairperson of the [Commission] or designee may determine. See *N.J.A.C.* 4A:4-4.7(a)4ii; see also, *N.J.S.A.* 2C:52-27(c). Additionally, *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for an appointment. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

Initially, there is no dispute that the appellant's criminal history adversely relates to the position of a County Correction Officer. Clearly, witness tampering, hindering – obstruction by force, obstruction of the administration of law, and obstruction of a criminal investigation are serious charges that call into question the character of a candidate for a public safety position. Although the charges against the appellant were dismissed, she does not provide any information regarding the circumstances surrounding her arrest. Moreover, the appellant's

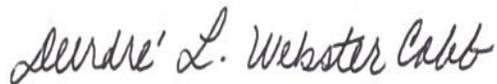
arrest occurred only two years and four months before the subject eligible list promulgated. Regarding rehabilitation, the foundation for an expungement is equivalent of evidence of rehabilitation. *See N.J.S.A. 2C:52-3 and N.J.S.A. 2C:52-8; See also, In the Matter of J.B.*, 386 *N.J. Super.* 512 (App. Div. 2006). However, the appellant provides no evidence on appeal that her petition for an expungement was granted. The Commission is mindful that a County Correction Officer is a law enforcement employee who must help keep order in the prisons and promote adherence to the law. Correction Officers, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an image of utmost confidence and trust. *See Moorestown v. Armstrong*, 89 *N.J. Super.* 560 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). *See also In re Phillips*, 117 *N.J.* 567 (1990). The public expects Correction Officers to present a personal background that exhibits respect for the law and rules. Accordingly, the Commission finds that the appellant's arrest adversely relates to the position of County Correction Officer. The appellant has failed to meet her burden of proof in the matter and a sufficient basis exists in the record to remove the appellant's name from the eligible list for County Correction Officer (S9999U), Cumberland County.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 26th DAY OF JANUARY, 2019



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